

APPEAL NO. 040441  
FILED APRIL 15, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on January 20, 2004. The hearing officer determined that the respondent's (claimant) impairment rating (IR) is 12%. The appellant (carrier) appealed, asserting that the hearing officer erred as a matter of law and that his decision is not supported by a preponderance of the evidence. The claimant responded, urging affirmance.

DECISION

Affirmed.

The hearing officer determined that the Texas Workers' Compensation Commission (Commission)-appointed designated doctor's certification that the claimant has a 1% IR is not entitled to presumptive weight, and that the claimant's IR is 12% as certified by the claimant's surgeon.

The hearing officer did not err in determining that the claimant's IR is 12%. Section 408.125(c) provides that the report of the designated doctor shall have presumptive weight and the Commission shall base the IR on that report unless the great weight of the other medical evidence is to the contrary. If the great weight of the other medical evidence contradicts the IR contained in the report of the designated doctor chosen by the Commission, the Commission shall adopt the IR of one of the other doctors. We have held that the designated doctor is required to rate the entire injury. Texas Workers' Compensation Commission Appeal No. 951158, decided August 21, 1995. Whether the designated doctor's report is contrary to the great weight of the other medical evidence involves a question of fact for the hearing officer to resolve. Texas Workers' Compensation Commission Appeal No. 000869, decided June 7, 2000. The hearing officer essentially determined that the Commission-appointed designated doctor failed to properly assign a rating under the Guides to the Evaluation of Permanent Impairment, fourth edition (1st, 2nd, 3rd, or 4th printing, including corrections and changes as issued by the American Medical Association prior to May 16, 2000), for the claimant's entire injury. In view of the evidence, we cannot conclude that the hearing officer's IR determination is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **TRANSCONTINENTAL INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION  
350 NORTH ST. PAUL STREET  
DALLAS, TEXAS 75201.**

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Daniel R. Barry  
Appeals Judge

CONCUR:

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Chris Cowan  
Appeals Judge

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Edward Vilano  
Appeals Judge